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## **Standard of Identity for Tequila**

**To: Proprietors of Distilled Spirits Plants, Importers, and Others Concerned**

### **PURPOSE**

This circular:

- Announces the recently-signed Agreement between the Office of the United States Trade Representative (USTR) and the Secretaría de Economía of the United Mexican States on Trade in Tequila (the Tequila Agreement);
- Explains the position of the Alcohol and Tobacco Tax and Trade Bureau (TTB) with respect to the storage, treatment, formulation, and labeling of Tequila;
- Summarizes various requirements for the importation and bottling of Tequila; and
- Restates the basic elements of the 1975 Bureau of Alcohol, Tobacco and Firearms (ATF) Industry Circular 75-13.

Since February 1, 1974, the official United States standard of identity for Tequila has recognized Tequila as a distinctive product of Mexico. The TTB standard of identity regulation for Tequila at 27 CFR 5.22(g) reads, in pertinent part:

Tequila is a distinctive product of Mexico, manufactured in Mexico in compliance with the laws of Mexico regulating the manufacture of Tequila for consumption in that country.

This regulatory language parallels the phrasing used in regulations to recognize "Scotch," "Irish," and "Canadian" whiskies as distinctive products of Scotland, Ireland, and Canada, respectively.

TTB maintains that for any imported spirit to retain its identity as a distinctive product of a foreign country, it must have been manufactured in compliance with the laws and regulations of that foreign country, and it must not be subjected to further manufacture in the United States by any act of rectification.

## BACKGROUND

An agreement between the Office of the United States Trade Representative and the Secretaría de Economía of Mexico regarding trade in Tequila was signed on January 17, 2006. The Tequila Agreement aims to protect trade in Tequila and ensure that bulk exports of Tequila from Mexico to the United States continue without interruption. A copy of this agreement can be found at [http://www.ttb.gov/international\\_trade/index.htm](http://www.ttb.gov/international_trade/index.htm).

While the Tequila Agreement places a prohibition on restrictions of bulk Tequila exports to the United States, there are various new requirements that may apply to importers and others concerned with trade in bulk Tequila as a result of new official Mexican standards. To these ends, TTB seeks to inform industry members of these changes through this Circular. The Agreement also requires that TTB restate the basic elements of ATF Circular 75–13. Accordingly, we provide the following information:

## AUTHORIZED TREATMENTS

Since March 1, 1976, the authorized treatment of Tequila in the United States is limited to:

- Reduction with water to a bottling proof of not less than 80 degrees of proof, provided, however, if diluted with water to a bottling proof of less than 80 degrees of proof, such dilution must be pursuant to an approved formula on TTB F 5110.38, Formula for Distilled Spirits Under the Federal Alcohol Administration Act and the product must be labeled as “Diluted Tequila.”
- Mingling with other Tequilas of the same class which were produced by the same distiller and which are otherwise homogeneous. For example, Silver Tequila could be mingled with Silver Tequila from the same producer. These restrictions also apply to the mingling of returned bottled Tequila.
- Filtration and clarification, provided such treatments do not alter the basic composition or characteristics of the Tequila.
- Storage in oak barrels. (Storage in oak barrels does not allow U.S. importers/bottlers to add an “aged” specification or to change the original manufacturer’s specification of age after importation. See the sections below on “Unauthorized Operations” and “Certificates of Age and Origin.”)

## UNAUTHORIZED OPERATIONS

Operations that are not authorized for the treatment of Tequila, in the United States, include the:

- Addition of coloring or flavoring (other than that deriving from storage in oak barrels) or blending materials, whether or not such addition is within the 2½ percent by volume limitation provided in 27 CFR 5.23(a)(2);
- Use of caramel for color adjustments;
- Mingling of Tequilas produced by different distillers; and
- Aging of Tequila, a process that may only be done by an authorized Tequila manufacturer established in Mexico. (As noted above, U.S. importers/bottlers cannot use the process of storage to add an “aged” designation or to change the original manufacturer’s age designation. Please note the section below on “Certificates of Age and Origin.”)

Tequila which has been subjected to any of the operations above may not be designated as Tequila under 27 CFR 5.22(g), since such operations would constitute acts of further manufacturing within the United States.

## **DISTILLED SPIRITS SPECIALTY PRODUCTS**

The use of Tequila in the manufacture of cocktails and other distilled spirits specialty products is not affected by the standard of identity. As such, in distilled spirit specialties (under 27 CFR 5.35) or a cordial or a liqueur (under 27 CFR 5.22(h)), the term “Tequila” may appear in a statement of composition or other truthful and non-misleading description of the components of these distilled spirits products.

## **CERTIFICATES OF CONFORMITY/AUTHENTICITY FOR EXPORTS OF TEQUILA**

Importers of bottled Tequila are reminded that the Tequila will not be released from United States Customs and Border Protection (USCBP) custody for consumption unless a certificate from a duly authorized official of the Mexican Government is filed with the application for release (see 27 CFR 5.52(c)(1)). For purposes of this Circular, a certificate issued by a compliance agency designated by the Government of Mexico complies with this certification requirement. Such a certificate must state that the Tequila is entitled to be designated as Tequila under the applicable laws and regulations of the Mexican Government.

In addition, all importers of bottled Tequila and all bottlers of imported bulk Tequila must possess and maintain such certificates, issued by a duly authorized official of the Mexican Government, for all of their Tequila imports (see 27 CFR 5.56). Such certificates must accompany each shipment/lot of Tequila imported. Upon request of a duly authorized representative of TTB, such certificates shall be made available for inspection and verification.

## **CERTIFICATES OF AGE AND ORIGIN**

If the label of any Tequila imported in bottles contains any statement of age, the Tequila will not be released from USCBP custody for consumption unless a certificate of a duly authorized official of the Mexican Government attesting to the age of the youngest Tequila in the bottles is filed with the application for release (see 27 CFR 5.52(c)(2)). The age certified should be the period during which the Tequila was stored in oak containers after distillation and before bottling.

Tequila imported in bulk for bottling in the United States shall not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin applicable to such spirits which are similar to the certificates required by 27 CFR 5.52(c) for like distilled spirits imported in bottles (see 27 CFR 5.56).

## **BRAND NAMES**

Article 2.4 of the Tequila Agreement states that the United States shall ensure that no label for a product that claims to be Tequila or claims to contain Tequila “shall contain any brand name which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product, unless TTB finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.” (See also 27 CFR 5.34).

## **TEQUILA BOTTLERS REGISTRY**

As part of the Tequila Agreement, the Mexican Government may require, through the Official Mexican Standard for Tequila, that all bottlers of Tequila in the territories of the United States and Mexico be registered on a “Tequila Bottlers Registry.” Article 4.2 of the Tequila Agreement contemplates that all bottling facilities importing bulk Tequila for bottling in the United States will be enrolled on the Mexican “Tequila Bottlers Registry” once the bottler provides a copy of their Distilled Spirits Plant (DSP) permit and fulfills certain administrative requirements. The DSP permit lists the “doing business as” or DBA names of the bottler. Under Article 4.3 of the Tequila Agreement, the United States will notify the Mexican Government if a U.S. company’s DSP permit is revoked. If a company’s DSP permit is revoked, the Mexican Government may remove that company from the Tequila Bottlers Registry, pursuant to Article 4.3 and Article 6.5 of the Tequila Agreement.

We note that Article 4.4 of the Tequila Agreement specifically states that the Mexican Government will not require inspections of bottling facilities in the United States in order for U.S. bottlers to be included on the Tequila Bottlers Registry. In addition, under Article 4.5 of the Agreement, the Mexican Government may not take any corrective or punitive action against bottlers in the territory of the United States with regard to any

activities that occur in the territory of the United States based on a presumption of non-compliance with the Official Mexican Standard for Tequila. Such prohibited action includes reducing or denying exportation of Tequila to bottlers. If Mexican authorities believe that corrective or punitive action against such a bottler is warranted, they may submit inquiries or complaints to the USTR pursuant to Article 6 of the Agreement.

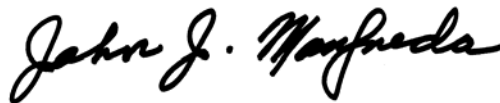
## **MEXICAN GOVERNMENT REQUIREMENT FOR CO-RESPONSIBILITY AGREEMENTS**

As part of the Official Mexican Standard for Tequila, the Mexican Government may require private contractual co-responsibility agreements, which may impose specific requirements and limitations upon the purchasers of bulk Tequila. However, the Mexican Government has agreed not to use these private contracts to establish any new requirements or restrictions that would violate the Tequila Agreement. For example, this includes but is not limited to Article 3.2(a) of the Tequila Agreement, which states that no measure of Mexico shall prohibit or restrict the exportation or sale for export of Tequila destined for bottling in the territory of the United States, whether in the form of a requirement that Tequila be bottled in Mexico, or in any other form (including government-mandated provisions in private contractual agreements). In addition, as outlined in Annex I of the Tequila Agreement (Consolidated Joint Recommendations of the Canadian, Mexican and U.S. Industries), any alleged breach of the co-responsibility agreement is subject to due process requirements prior to any restrictions being imposed.

## **INQUIRIES**

Inquiries concerning this Circular should refer to its number and be addressed to the Director, International Trade Division, Suite 400W, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW, Washington, DC 20220.

You may also contact the division by phone at 202-927-8110 or by e-mail at [ITD@ttb.gov](mailto:ITD@ttb.gov).



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